

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

CHRYSTINE HOOD,	§	
<i>Plaintiff,</i>	§	
	§	
vs.	§	CIVIL ACTION H-07-3017
	§	
HSMTX/STALLONES-TOMBALL, INC., LLC,	§	
D/B/A TOMBALL RETIREMENT CENTER,	§	
<i>Defendant.</i>	§	

**ORDER**

This case is before the court on defendant's motion to compel discovery (Dkt. 19). Defendant contends that in response to its discovery requests plaintiff lodged a litany of boilerplate and inappropriate objections. Plaintiff represents that it has fully answered or provided documents in response to all but one of defendant's discovery requests.

Defendant does not contest plaintiff's representations, but nonetheless argues that plaintiff's objections are without merit and must be overruled. *See* Defendant's reply (Dkt. 21). The point is essentially moot. If plaintiff has provided the requested discovery, there is nothing for the court to compel. On the other hand, if plaintiff has provided full answers and responses to the discovery requests and is not withholding documents based on her objections, then her objections are moot. In order to assuage defendant's fears of "ambush" at trial, plaintiff's objections to the discovery requests that are the subject of defendant's motion (except any privilege objections, which are not at issue here) are overruled.


There is one disputed item which warrants further discussion. Defendant's request for production no. 15 seeks plaintiff's complete tax returns since 2003. Plaintiff worked for

defendant from 2005-2006. Plaintiff's earnings since her employment by defendant are clearly relevant and discoverable. Yet, defendant has not articulated the relevance of plaintiff's earnings prior to her employment by defendant. Therefore, as an initial matter the court agrees that the request should be limited to the years 2005 through trial. The remaining issue is whether defendant's have a less intrusive means of discovering this information.

Defendant argues that at the very least plaintiff must produce her W-2 forms so that defendant can assess plaintiff's lost wages claim. Defendant should have in its own files any W-2 issued to plaintiff by it. Defendant's request no. 23 seeks all W-2s from any source since plaintiff's employment with defendant. Plaintiff responded that such documents would be produced, and request no. 23 is not a part of defendant's motion to compel. It appears to the court that defendant already has sufficient information to assess plaintiff's lost wages claim.

It is therefore ORDERED that defendant's motion to compel (Dkt. 19) is denied.

Signed at Houston, Texas on May 28, 2008.

  
Stephen Wm Smith  
United States Magistrate Judge